

***United States Court of Appeals
for the Second Circuit***



**APPELLEE'S
APPENDIX**

77-1263

77-1263

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

vs.

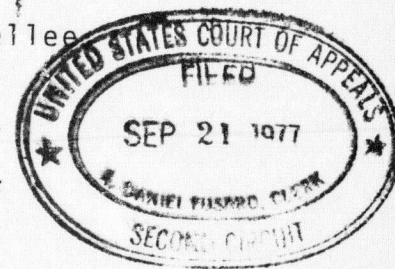
DANIEL YODER,

Defendant-Appellee

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

APPENDIX FOR DEFENDANT-APPELLEE

JAMES P. HARRINGTON
Attorney for Appellee
Office and P.O. Address
474 Statler Hilton
Buffalo, New York 14202
Phone: (716) 855-3391



PAGINATION AS IN ORIGINAL COPY

APPENDIX TABLE OF CONTENTS

Statement of Brian Buchanan of November 3, 1976	1
Statement of Michael Yoder of November 11, 1976	5

Buffalo, New York
November 3, 1976

BB I, Brian Richard Buchanan, give the following voluntary statement to Thomas Alva Gray, Jr., and Neil D. Heiner III, who have identified themselves to me as Special Agents of the Federal Bureau of Investigation. Special Agent Gray advised me that this interview concerns a possible violation of the Federal Bank Robbery Statute in connection with the robbery of the Wyoming County Bank, Strykersville Office, Route 78, Strykersville, New York, on Wednesday, October 20, 1976. Special Agent Gray read me a form entitled, "Interrogation; Advice of Rights," which I read and understood and signed. After signing this form, I gave the following voluntary statement, and no threats, promises or coercion of any kind was used to get me to make this statement:

I am a white male. I was born September 8, 1954, at Buffalo, New York. I am 5' 10" in height; I weigh 145 pounds; I have long blond wavy, bushy hair, hazel blue eyes, and I wear a mustache. I have a one-half inch cut scar on my forehead above my left eyebrow. Although I presently have no particular residence, I previously resided at 10190 Pratham Road, Town of Sardinia, New York, the mailing address of which is Glenwood, New York. I resided at this address until Thursday, October 21, 1976. JB

e

2.
During the early morning hours of Wednesday, October 20, 1976, I and two other individuals robbed the Wyoming County Bank, Strykersville Office, Route 78, Strykersville, New York. During the early morning hours of October 20, 1976, I drove my car, which is a 1967 turquoise colored Chevrolet Bel Air, two-door sedan, New York License 755-WWY, which car has rust spots and white stickers with the work "Azcap" on it, with the other two individuals as passengers, to Strykersville, New York, where I parked the car on a small dirt side road off Strykersville Road. ^{BB}I and ~~the other two individuals then walked to the Wyoming County Bank, Route 78, Strykersville, New York.~~ ^{BB}I sat in the car while the others walked to the bank with the purpose of cutting a hole in the bank roof with a chrome-colored saw. They came back and got me, and we all walked down to the bank. All three of us entered the bank through this hole in the bank roof.

We entered the main floor of the bank by lifting out a loose ceiling tile. We waited ^{BB}inside ~~the bank~~ ^{BB}until two women employees arrived and entered the bank. A few minutes later, a male employee of the bank, who identified himself as the bank manager, arrived at the bank. We had the two women employees open the bank vault and then open a vault inside the bank vault, and we took the money from ^{BB}

-3-

^{BB}the four drawers inside this vault. The money consisted of bills and coins. There were bank money straps around some of the bills, and some of the coins were in bank coin wrappers. We then drove the gold-colored Buick, belonging to one of the female bank employees, from the bank parking lot to the location on Strykersville Road, where my car was parked.

^{BB}All three of us ^{BB I was BB}were wearing coveralls when we were at the bank. I had on a black ski mask with red trim around the eyeholes. ^{BB}One of the other individuals ~~wore a brown ski mask with gold trim, and the other individual wore a red devil-Halloween mask.~~ ^{BB BB BB}We all wore gloves. One of the other individuals carried a tire iron, and the other carried a yellow-handled screwdriver, which screwdriver was left behind at the bank. In the Buick, ^{BB I BB}we removed the masks. ^{BB BB}

When we arrived at my car, we got out of the Buick and got into my car taking the masks, ^{BB BB}the money, and the tire iron with us. I then drove us back to my house at 10190 Pratham Road, Town of Sardinia, New York. I drove my car several hundred yards back of my house at 10190 Pratham Road, where I left it in the field. ^{BB}I ~~and the other two individuals~~ ^{BB BB}put ~~our~~ ^{my BB}coveralls, masks, ^{BB BB}gloves, ~~the tire iron,~~ ^{BB}some bank papers, and other items in a large metal trash barrel near

where I left my car. ^{BB}The tire iron was left in the trash barrel, too. ^{BB BB}We divided the money at my house at 10190 Pratham Road. Only myself and these two other individuals who robbed the bank were involved. ^{BB}

B.B.
Although I have spent some of my one-third of the money, I still have most of it left, and I wish to turn this money over to the Federal Bureau of Investigation. B.B.

B.B.
I have read this statement of this page and three other pages. I have initialed each page and each correction. I now sign this statement because it is true and correct to the best of my knowledge. B.B.

SIGNED: Brian R. Buchanan 11/3/76

WITNESS: Thomas Alex Gay, Jr., Special Agent, FBI, Buffalo, N.Y. 11/3/76

WITNESS: Neil D. Klein III, Special Agent, FBI, Buffalo, N.Y. 11/3/76

Buffalo, New York
November 11, 1976

my, Michael Roman Yoder, make the following voluntary statement to Special Agents John C. Poerstel and Thomas Alva Gray, Jr. who have identified themselves to me as Special Agents of the Federal Bureau of Investigation. Special Agent Gray advised me that this interview concerns a violation of the Bank Robbery statute in connection with the robbery of the Wyoming County Bank, Route 78, Strykersville, New York on October 20, 1976. Special Agent Gray read a form to me entitled "Interrogation; Advice of Rights" which I read, understood and signed. After signing this form, I voluntarily furnished the following information:

I and two other white males robbed the Wyoming County Bank, Route 78, Strykersville, New York on October 20, 1976. I and the other two individuals drove to Strykersville, New York, during the early morning hours of October 20, 1976, while it was still dark. We drove to Strykersville in the blue-green Chevrolet two-door sedan that belongs to Brian Buchanan. We parked this car on a small side road a short distance from the bank. I and one of the other two individuals walked from the car to the Wyoming County Bank on Route 78 and saved a hole in

my

my in the roof of the bank with a keyhole saw. We then walked back to Buchanan's car and then all three of us walked down to the bank. We waited until we saw a car pull up in the bank parking lot and we thought the people in the car would be bank employees. We entered the bank through the hole we had sawed in the roof. We lifted out a loose ceiling tile and entered the main part of the bank. We had the two female bank tellers empty their purses on a table in the back room of the bank so we could look for their car keys. We waited for a few minutes until the bank manager arrived who is a white male. We then had the two female tellers open the bank vault. Later we had the same two tellers open a vault inside the bank vault where the four money drawers were located. ^{my} ~~He~~ ^{the other two individuals my} pried open these cash drawers with a yellow handled screwdriver that I had with me and one of the other individuals used a tire iron he had brought with him to pry open these drawers. We did not bring the screwdriver and tire iron to threaten or hurt anyone. The other two individuals with me were the ones inside the vault getting the money. We taped the three bank employees with white nylon cord tape and black electrical tape. We left the bank and drove the brown Buick, in which the two women tellers had come to work in, to the place where Buchanan's car was parked. During the robbery, all

my

~~My~~ three of us wore coveralls. I wore a brown ski mask with gold trim. One of the other individuals wore a black ski mask with red trim, and the other individual wore a red devil Halloween mask. One of the other individuals wore a dark blue sweatshirt with a hooded top. While we were in the Buick, we removed our masks. We took the masks and the money with us when ^{we} ~~he~~ got out of the Buick and got into Buchanan's car. We drove to Buchanan's house on Prathan Road. We left Buchanan's car in a field several hundred yards behind Buchanan's house. I put the coveralls and the ski mask I wore during the bank robbery in a large metal trash barrel near the car in this field. The other two individuals placed items they had worn during this bank robbery in the barrel also. We divided the money we got from the bank three ways while we were in the field behind Buchanan's house. My share was approximately \$5,500. I have spent some of the money I got from robbing the bank, however, I still have some left and I will turn this money over to Special Agent Gray on November 12, 1976. ^{my}

I have read this statement of this page and two other pages. I have initialed each page and each signature. I now sign it because it is true and correct to the best of my knowledge.

WITNESSES: *John C. Barst, S.A. FBI, Buffalo, N.Y. 11/11/76*
Michael R. C. 11/11/76

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

77-1263

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

AFFIDAVIT OF
SERVICE BY MAIL

-VS-

DANIEL YODER,

Defendant-Appellee.

STATE OF NEW YORK :
COUNTY OF ERIE : ss.
CITY OF BUFFALO :

CYNTHIA ANNE WOJTANIK, being duly sworn, deposes and says that deponent is not a party to the action, is over 18 years of age and resides at Lackawanna, New York.

~~APPENDIX~~ That on September 20, 1977, deponent served the within Brief of Defendant-Appellee upon S. Daniel Fusaro, Clerk, U.S. Court of Appeals for the Second Circuit at New York, New York 10007, and a copy of same upon Richard J. Arcara, United States Attorney, Western District of New York, Edward J. Wagner, Assistant U.S. Attorney, Of Counsel, at 502 United States Courthouse, Buffalo, New York 14202, the addresses designated by said Clerk and United States Attorney for that purpose by depositing a true copy of same enclosed in a post paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Cynthia Anne Wojtanik
CYNTHIA ANNE WOJTANIK

SWORN to before me this
20th day of September, 1977.

James P. Hamington
JAMES P. HAMINGTON
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1980